South Dakota One Call Notification Board

GREAT FACES. GREAT PLACES.	*South Dakota* NE CALL 1-800-781-7474	Larry Englerth Executive Director	1012 North Sycamore Ave. Sioux Falls, SD 57110	Tel/Fax (605) 339-0529 Email: exedir@sdonecall.com

TO: JEREMY SCADDEN CONSTRUCTION

FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;

In the Matter of the Complaint OC04-004 filed by City of Brandon against Jeremy Scadden Construction, regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5 on four different instances. Pursuant to SDCL 49-&A-20 each violation of this statute constitutes a separate offense.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Jeremy Scadden Construction. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business on May 21, 2004, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant.

South Dakota One Call Notification Board
1012 N. Sycamore Avenue
Sioux Falls, SD 57110-5747

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc. We would encourage you to specifically address the four alleged violations of SDCL 49-7A-5 referenced in the complaint:
- Failure to provide notification of the proposed excavation when excavating basements at 113 Country Club Ave. and at 2200 Byrum Circle in Brandon, SD.
- Failure to provide notification of the proposed excavation when excavating for the installation of sewer and water lines at 200 Seth Street and 1705 Mulberry Street.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. Failure to respond to this notice will be considered as concurrence that the allegations included in the complaint are accurate. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-7A-19. If any financial penalties are assessed in response to Complaint OC04-004, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:
1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;

4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. Other matters as justice requires.

You may address any of these items in your response if you believe it would be of value to the committee when they consider this complaint.

Pursuant to SDCL 15-6-55, failure to answer this Complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. You are strongly urged to reply to this Notice in the time frame described above and to obtain the advise of counsel should you have any legal questions.

A copy of the Operations Manual for Facility Operators and Excavators is enclosed. The South Dakota One Call Statute is reprinted in this manual starting on page 25 with the penalty section starting at the bottom of page 29. We would encourage you to review this material prior to completing your response.

Procedural questions may be directed to Larry Englerth, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com.

Enclosure

cc: Wayne Fletcher, City of Brandon, Complainant (cover letter only via email)

U.S. Postal Service™
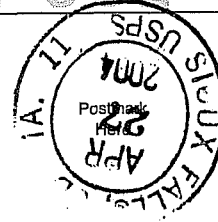## CERTIFIED MAIL™ RECEIPT
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Certified Fee		230
Return Reciept Fee (Endorsement Required)		175
Restricted Delivery Fee (Endorsement Required)		1
Total Postage & Fees	$	6.11

Sent To

Street, or PO

City, St

Jeremy Scadden Construction
120 Olson Street
Valley Springs, SD 57068

PS For   ructions